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JUN 25 2003

215530US-2PCT

Technology Center 2100

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :
HOREA BACILA, ET AL. : EXAMINER: UNKNOWN
SERIAL NO: 09/926,751 :
FILED: DECEMBER 12, 2001 : GROUP ART UNIT: UNKNOWN
FOR: APPARATUS AND A METHOD :
FOR SUPPLYING INFORMATION

**SECOND REQUEST FOR RECONSIDERATION
AND RENEWED PETITION UNDER 37 CFR §1.47(a)**

COMMISSIONER FOR PATENTS
Office of PCT Legal Administration
Box PCT
ALEXANDRIA, VA 22313-1450

SIR:

Applicants hereby again request reconsideration of the Petition under 37 CFR §1.47(a) filed April 1, 2002 (hereinafter, original Petition), to accept the Declaration and Power of Attorney for Patent Application 09/926,751 and consider the new application filed by the signing inventors (i.e., Mr. Horea Bacila and Mr. Catalin Suciuc) as having been filed on behalf of themselves and their joint inventors (i.e., Mr. Ovidiu Ban, Mr. Mirela Boboc, and Mr. Mihai Spatar) who "cannot be found or reached after diligent effort" to preserve the rights of the Assignee, Worldlink Information Technology Systems Limited formerly Olympic Worldlink Ltd.

On September 4, 2002, a Decision on Petition (hereinafter, Decision) that dismissed the originally filed Petition without prejudice was mailed with regard to the above-identified original Petition. On November 4, 2002, a first request for reconsideration and renewed


Petition was filed and followed up with the filing of a Supplemental Request and Renewed Petition on April 14, 2003. This Supplemental Request and Renewed Petition included the further evidence mentioned in the first Request and Renewed Petition as to further registered mailings to the last known addresses of the missing inventors and search of the internet and local telephone directories for any further address information as to those missing inventors. In addition, several related matters were clarified.

This Supplemental Request and Renewed Petition notwithstanding , a Decision on the first Request and Renewed Petition was mailed on April 23, 2003 which was clearly in error in asserting that this evidence was not filed. Petitioner's can only assume that the Supplemental Request and Renewed Petition were lost by the United States Patent and Trademark Office and submit herewith copies of the Supplemental Request and Renewed Petition along with a copy of the mail room filing receipt documenting the filing thereof.

Accordingly, Applicants again request that the already filed Declaration and Power of Attorney signed by the first-named inventor, Mr. Horea Bacila and by Mr. Catalin Suciu be accepted on behalf of themselves and the unavailable inventors Mr. Ovidiu Ban, Mr. Mirela Boboc and Mr. Mihai Spatar, who cannot be found after diligent effort by the Assignee as outlined in the original Petition be accepted and that the Decision dismissing the original Petition be withdrawn because the above-noted errors in the Decision.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599
Raymond F. Cardillo, Jr.
Registration No. 40,440



22850

GJM/RFC/jmp
(703) 413-3000

215530US-2 PCT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION. OF:

HOREA BACILA, ET AL.

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**SUPPLEMENTAL REQUEST FOR RECONSIDERATION AND
RENEWED PETITION UNDER 37 CFR §1.47(a)**

COMMISSIONER FOR PATENTS
Office of PCT Legal Administration
Box PCT
Washington, D.C. 20231

SIR:

Supplemental to the Request for Reconsideration and Renewed Petition Under 37 CFR §1.47(a) (hereinafter, Renewed Petition) filed on November 4, 2002, Petitioners hereby request that the attached Declaration of Crispin Burdett and Supplemental Declarations of Neil Riches be considered along with evidence submitted with the original Petition under 37 CFR §1.47(a) filed April 1, 2002 (hereinafter, Original Petition), to accept the Declaration and Power of Attorney for Patent Application 09/926,751 and consider the new application filed by the signing inventors (i.e., Mr. Horea Bacila and Mr. Catalin Suciu) as having been filed on behalf of themselves and their joint inventors (i.e., Mr. Ovidiu Ban, Mr. Mirela Boboc, and Mr. Mihai Spatar) who "cannot be found or reached after diligent effort" to preserve the rights of the Assignee.

As noted in the Renewed Petition, a Decision on Petition (hereinafter, Decision) was mailed on September 4, 2002, with regard to the above-identified Original Petition that was

believed to be in error for the reasons noted therein. The Renewed Petition also noted that while the Decision clearly erred in taking examples of alternative possible evidence in the cited MPEP §409.03(d) portion dealing with an inventor who cannot be reached and creating requirements from these mere examples, Petitioners would nevertheless resend registered letters to the last known addresses of the missing inventors and conduct telephone directory and internet searches and would further report the results of these efforts as soon as they were completed in order to further demonstrate Petitioners diligence.

Accordingly, Petitioners note that the Declaration of Crispin Burdett is submitted herewith is evidence that a search of the names of the missing inventors (i.e., Mr. Ovidiu Ban, Mr. Mirela Boboc, and Mr. Mihai Spatar) was made on February 14, 2003, in the London and Surrey telephone directory and on the internet and that this search was unsuccessful in terms of discovering any new address information, all as set forth therein.

Petitioners note that one of the Supplemental Declarations of Neil Riches sets forth the details of the mailing of a second registered letter to the last known address of Mr. Ovidiu Ban and Mr. Mihai Spatar and the mailing of a third registered letter to the last known address of Mr. Mirela Boboc. The copies of the returned envelopes attached to this Supplemental Declaration of Neil Riches indicate that these letters were "not called for" as to of Mr. Ovidiu Ban and Mr. Mihai Spatar, while the copy of the envelope addressed to Mr. Ovidiu Ban indicates "address unknown."

The second Supplemental Declaration of Neil Riches addresses the meaning in the U.K. of the "not called for" box being checked with regard to an attached explanation from a Royal Mail representative, Carol M. Harwood. In this regard, Ms. Harwood notes that when no one is available at the address of a Special Delivery or recorded Delivery item that can sign for it, a notice card is left to inform the recipient that the item is awaiting collection at the Delivery

Office. If recorded items are not called for in one week, the item is returned to the sender with the label indicating "not called for."

The last Supplemental Declarations of Neil Riches simply notes an inadvertent error in his Declaration of April 1, 2002, as to a mailing date and corrects that inadvertent error.

Accordingly, Petitioners again request that the already filed Declaration and Power of Attorney signed by the first-named inventor, Mr. Horea Bacila and by Mr. Catalin Suciuc be accepted on behalf of themselves and the unavailable inventors Mr. Ovidiu Ban, Mr. Mirela Boboc and Mr. Mihai Spatar, who cannot be found after diligent effort by the Assignee, as outlined in the Original Petition, Renewed Petition, and this Supplemental Renewed Petition, be accepted and that the Decision dismissing the Original Petition be withdrawn.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier
Registration No. 25,599
Attorney of Record
Raymond F. Cardillo, Jr.
Registration No. 40,440



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**REQUEST FOR RECONSIDERATION AND
RENEWED PETITION UNDER 37 CFR §1.47(a)**

COMMISSIONER FOR PATENTS
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Box PCT
Washington, D.C. 20231

SIR:

Applicants hereby request reconsideration of the Petition under 37 CFR §1.47(a) filed April 1, 2002 (hereinafter, original Petition), to accept the Declaration and Power of Attorney for Patent Application 09/926,751 and consider the new application filed by the signing inventors (i.e, Mr. Horea Bacila and Mr. Catalin Suciuc) as having been filed on behalf of themselves and their joint inventors (i.e., Mr. Ovidiu Ban, Mr. Mirela Boboc, and Mr. Mihai Spatar) who "cannot be found or reached after diligent effort" to preserve the rights of the Assignee, Worldlink Information Technology Systems Limited formerly Olympic Worldlink Ltd.

On September 4, 2002, a Decision on Petition (hereinafter, Decision) was mailed with regard to the above-identified original Petition. That Decision was clearly erroneous in several respects and Petitioners request reconsideration and clarification thereof for the following reasons.

1. The Decision first errs in apparently confusing the alternatives listed from 37 CFR §1.47(a) as to a joint inventor refusing to execute the application presented to him for execution with the different circumstances of a missing inventor who cannot be reached after diligent effort. In this regard, Page 2 of the Decision indicates that it is somehow relevant to its dismissal of the original Petition that sought relief because three joint inventors could not be found/reached after a diligent effort that no “proof to collaborate that a complete application (specification, including claims, drawings, and oath or declaration) was sent to them at their last known address” was submitted with the original Petition. In this regard, no such requirement appears in either 37 CFR §1.47(a) or the cited MPEP §409.03(d) portion dealing with an inventor who cannot be reached. While the portion of MPEP §409.03(d) dealing with the other alternative, “REFUSAL TO JOIN,” mentions that a copy of the above-noted complete application should be sent to any non-signing inventor at their last known address, the issue here is whether the efforts to reach/locate the missing inventors were reasonable, not whether any of the inventors were actually presented a complete application which he then refused to sign. Accordingly, an appropriate citation of authority that demonstrates the requirement is not an arbitrary one is respectfully requested.

2. Besides the Decision clearly erring in requiring proof that the inventors who cannot be reached were sent the above-noted complete application at their last known address, the further arbitrary requirement that Petitioners must supply proof of “collaboration” by some unidentified entity in sending the above-noted complete application to the last known address of the missing inventors is respectfully submitted to be a further clear error.

3. The Decision further erroneously states that the declaration included with the original Petition “only states that registered letters were sent once to each of the three individual inventors at their last known addresses, respectively.” The declaration included with the original

Petition states that a first registered letter was sent to Mr. Mirela Boboc's last known address on August 8, 2000, followed by a second registered letter on August 10, 2000, to that same last known address. Thus, the statement in the Decision that the record "only shows one attempt" is erroneous as to Mr. Mirela Boboc.

4. Besides erroneously ignoring that there were two attempts to reach Mirela Boboc by registered mail at his last known address, the Decision appears to take examples of alternative possible evidence in the cited MPEP §409.03(d) portion dealing with an inventor who cannot be reached and to create requirements from these mere examples. Thus, while examples that include internet searches or certified mail return receipts are mentioned, what authority requires both? In the interim, as Petitioners desire to make every effort to reach the missing inventors, Petitioners have resent registered letters to the last known addresses of the missing inventors and are having telephone directory and internet searches conducted and will report the results of these efforts as soon as they are completed in order to demonstrate Petitioners diligence in a manner that should satisfy even the arbitrary requirements being imposed by the Decision.

5. While MPEP §1002.02(p)(10) indicates that "the PCT Legal Administrator" is to decide Petitions under 37 CFR §1.47(a) in a national stage application, no mention is made here of any delegation of this delegated authority to the two Legal Examiners who signed the Decision that dismisses the original Petition. The legal authority for this apparent further delegation of authority granted to "the PCT Legal Administrator" to decide Petitions under 37 CFR §1.47(a) in a national stage application to "Legal Examiners" is respectfully requested.

Accordingly, Applicants again request that the already filed Declaration and Power of Attorney signed by the first-named inventor, Mr. Horea Bacila and by Mr. Catalin Suciu be accepted on behalf of themselves and the unavailable inventors Mr. Ovidiu Ban, Mr. Mirela Boboc and Mr. Mihai Spatar, who cannot be found after diligent effort by the Assignee as

outlined in the original Petition be accepted and that the Decision dismissing the original Petition be withdrawn because the above-noted errors in the Decision.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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Registration No. 40,440



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GJM/RFC/jmp